

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING
March 28, 2006**

Place: Room 206
Town Hall

TIME: 8:00 PM

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:
Damanti, Conze, Forman, Spain, Bigelow

STAFF ATTENDING: Ginsberg, Keating
COURT RECORDER: Syat

At 8:00 P.M., Chairman Damanti read the first agenda item:

PUBLIC HEARING

Business Site Plan #245, HSBC, 151-165 Boston Post Road. Proposing to establish a bank with associated parking and landscaping and perform related site development activities. The subject property is located on the north side of Boston Post Road, approximately 100 feet east of its intersection with Richmond Drive, and is shown on Assessor's Map #12 as Lots #36 & #37 in the SB-E Zone. *POSTPONED UNTIL APRIL 25, 2006.*

Mr. Damanti noted that since he and Mr. Bigelow will be recusing themselves on this application, that this matter will have to be postponed until April 25th. He then read the next agenda item:

Continuation of Public Hearing regarding Subdivision Application #164-B, Nancy Hyland, 40 Noroton Avenue. Proposing to subdivide the existing properties into three building lots with associated open space and perform related site development activities. The subject properties are located on the east side of Noroton Avenue approximately 150 feet north of its intersection with Clock Avenue and are shown on Assessor's Map #42 as Lots #151 and #152, in an R-1/3 Zone. *PUBLIC HEARING OPENED ON FEBRUARY 28, 2006.*

Mr. Bigelow, a direct abutter to the subject property, left the room to avoid any perception of a conflict of interest. Attorney Arthur Engle, of Rucci Burnham Carta Carello & Reilly said that he will wait until the neighbors speak first.

Mr. Jim Spataro of 5 Clock Avenue submitted a petition signed by 58 people requesting denial of the proposed street, Eddy Lane. He said that the project is not in compliance with the Regulations. He mentioned that he also has traffic and safety concerns. Relative to drainage, Mr. Spataro explained that there is about ½ acre of new impervious asphalt and flagstone proposed, and they are not adequately managing runoff. The applicants claim zero runoff, but will they guarantee it? He then referred to the 2005 draft Town Plan of Conservation & Development, specifically Chapter 3, pages 3 and 4. He asked whether there will be a drainage easement in favor of the Town. He explained that the existing carriage house was built around 1850. He asked why the Commission should make an except of the rules to allow a new street, when the result will be the demolition of this old building.

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Ms. Jean Metayer of 1 Clock Avenue said that she supports the subdivision. She once rented the cottage for a summer, and safety was not a concern then, and it is not with this project. The size of the new houses will be larger than the existing houses, but not a problem.

Mr. Mike Sheehan of 41 Noroton Avenue said that this proposal is not about neighbors adding on to their houses or knocking them down and replacing them, it is about developers seeking waivers of the subdivision regulations for more profit. There is no proof that the existing historic house will remain. He said that the subdivision plan does not comply with the Subdivision Regulations. One issue is the distance from Casement Street. He said that the engineers use a 5-year storm analysis, rather than a 25 year storm analysis as required for drainage. He claimed that they cannot trust the applicant/developer.

Attorney Wilder Gleason was present on behalf of the Rices of 11 Clock Avenue. The Rices were formerly opposed to the four lot project, but now have worked out their issues, and support this three lot project. A letter in support of the proposal was previously submitted. He wished to specify that the large beech tree will be maintained by the homeowners association.

Mr. Jerry Dimeglio of 15 Dickinson Road said that there is no drainage problem in the area now. He asked if a problem develops as a result of this, what is the recourse? Mr. Orison MacPherson of 13 Dickinson Road said that he is against the subdivision and greed. He believed that if Ms. Eddy wanted the property subdivided, then she would have done it, and she did not, out of respect for the neighbors.

Ms. Virginia Otis of 17 Dickinson Road said that there will be drainage consequences due to the two large houses proposed. A large volume of absorption will be removed. The water will go downhill towards the neighbors, such as her. What will happen when their dry basements become wet? With the reduction in the number of new lots, the proposed houses will get bigger, and way out of character with the neighborhood. Any screening should be mass plantings of tall shrubs under existing deciduous trees. Instead, they propose a few small trees, not evergreens. They need meaningful visual and noise screening.

Ms. Donna Sheehan of 41 Noroton Avenue said that there are inconsistencies in the application, and that she is asking the Commission to deny the application. She noted in the comments from the Public Works Department that a permit is needed, and none has been submitted. She also asked about maintenance of the drainage system, and there has been no response. The Fire Marshal has said that there needs to be a 45 foot turning radius. A ZBA variance was granted, but if the plans change, then they need to return to the ZBA. Instead of preserving trees, they proposed to remove two large trees to create sight lines for the new road. The center of the proposed street is not 150 feet from Casement Street, it is actually 141 feet. The submitted traffic report is an opinion, not a traffic study. She claimed that Attorney Engle changes Captain Pavia's opinion about traffic to equate it to no safety problem. They will be increasing the use of the property by adding two 7,500+/- square foot houses, which will be a substantial change. She then submitted and read aloud from a Redniss & Mead memorandum dated March 27, 2006 and referred to a Redniss & Mead map dated 03/27/2006. She noted that the centerline to centerline distance of the rights-of-way is 141.4 feet, and there is only 150 feet if it is measured at an angle from the edge of the right-of-way of Noroton Avenue to the opposite edge of the Noroton Avenue right-of-way.

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Ms. Sheehan noted that there are twelve bus stops within 800 feet of this proposed street, and she submitted a 2005-06 Transportation Schedule from the Board of Education. She mentioned that the applicant's summary says that the property is 2.143 acres to be reduced to 2.166 acres.

Mr. Peter Leinroth of 46 Noroton Avenue said that he is not in support of the proposal. He said that his is the largest house in the neighborhood, and the proposed houses could be twice as large. This would be an undue concentration of development too close to each other and neighbors.

Mr. Phil Rosztoczy of 7 Clock Avenue said that he had submitted materials previously. He said that it seems that neighbors only get a response and results if they hire an attorney. He claimed that there were 14 violations of the Subdivision Regulations, and he noted these in the materials he submitted on March 24, 2006. He referred to Article IV I 3 regarding drainage. He said that the applicant only considered a 5-year storm instead of a 50-year storm. The issue is of great concern to the neighbors. There are many non-conforming lots on Clock Avenue which back up to the southerly portion of Eddy Lane. Ms. Judy Groppa of the Darien Historic Society said that she is concerned about the knockdown of the 1850s carriage house. The old well located at or about 24 Park Place is fed by a spring, and this is adjacent to the north-east corner of the site, and is not addressed.

Ms. Margaret Bigelow of 9 Clock Avenue said that she originally opposed the application, and she is now in support of a reduced number of lots and this plan. Mr. Mike Sheehan then submitted a letter from the neighbor at 35 Noroton Avenue. Mr. Rosztoczy said that the Bigelows are represented by an attorney, and others have made similar requests as the Bigelows.

Attorney Arthur Engle said that he has disdain for the neighbors comments. The proposed Eddy Lane is a hammerhead, not a cul-de-sac, and its end is far from the neighbors, and the side is not. Any neighbor can expand their house to the maximum allowed by the regulations. Small plants will be planted on a 2-3 foot high berm to increase their effective height and to create a good understory. These plants will include Cherry Laurels near the Otis property. Planting plans are comparable for all neighbors. They would be willing to make modifications as needed/required. They will need to use plants that are shade tolerant, due to the existing large deciduous trees. He estimates that they have spent twenty hours trying to work with the neighbors on this project. The planting plan was worked on in January 06 by Don Ferlow. Mr. Engle said that relative to drainage, the DPW permit was discussed with Assistant Public Works Director Darren Oustafine, who said that nothing is needed yet, not until the subdivision plan is acted upon by the Planning & Zoning Commission. They will get the applicable DPW permit(s) when they are needed. Mr. Engle said that Professional Engineer Gary Dufel of Stearns & Wheeler designed this project for a 50-year storm. The houses will tie into the Town sanitary sewers. The homeowners association will be responsible for drainage from the street and individual homeowners would be responsible for their own properties.

Ms. Denise Halstead of Stearns & Wheeler was present and explained that the regulations required a 50-year design storm. They have added infiltration areas in the Noroton Avenue watershed. This is well drained soil, and the rain garden will catch the overflow about one foot deep. There is no net increase in the peak discharge. They will actually be decreasing out from the impervious surfaces.

Mr. Engle summarized by noting they need a waiver of the 500 foot street separation requirement. The traffic engineer says the project will be safe, and there has been no testimony to the contrary.

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There has been two houses on the subject property for many years, and they are increasing it to three houses. A tree will be removed to improve safety, by increasing the sight lines on Noroton Avenue. They will be decreasing the grade from 10% to 1%. Nothing in the Subdivision Regulations defines how to measure centerlines of the streets, and he is not aware of any industry standard. As part of this proposal, they will be eliminating a driveway on Noroton Avenue. In the absence of a report, it is routine to waive some of the Subdivision Regulations.

Mr. Orison MacPherson said that he never got a phone call from the applicant. Ms. Donna Sheehan said that the map from William W. Seymour & Associates done for the applicant is not a certified survey, but rather, a sketch map. She added that continued maintenance of the detention system is not addressed as required. Mr. Rosztoczy said that part of the reason for the 500 foot rule is also for spaces. He said that in his opinion, a cul-de-sac and hammerhead are the same.

There being no further questions or comments from the general public or Commission members, Mr. Conze made a motion to close the public hearing on this matter. That motion was seconded by Ms. Forman and unanimously approved. The Commission then took a ten minute recess until 9:50 P.M. Mr. Bigelow returned to the room, and Mr. Damanti then read the next agenda item:

Business Site Plan #205-C, RJ Realty, LLC, 205 Boston Post Road. Proposing to establish a 473 square foot drive-through dry cleaning facility and perform related site development activities within regulated areas. The subject property is located on the north side of Boston Post Road at its northwest intersection with Richmond Drive and is shown on Assessor's Map #13 as Lot #6, in the SB-E Zone.

Attorney Wilder Gleason was present on behalf of the applicant. He said that Robert Correa, the existing property owner, has owned this site since 1997, which is the site of the former Fence Connection. This is the small remainder of a former larger parcel. The subject property is in the SB-E zone, and Mr. Gleason said that it is difficult to find a use that requires exterior use or an auto-dependent use. There is not a "cut-through" in the center median of Boston Post Road to allow vehicles to get to and from Richmond Drive. Mr. Gleason said that they recently went before the Zoning Board of Appeals (ZBA) in Calendar #58-2004. That request, to use the site as general retail, was denied.

The subject application is for a drop-off/pickup business for dry cleaning. No actual dry cleaning, pressing, or other machines will be used to process clothes at this site. A new building will be constructed, which will be less than 500 feet in size. There will be a new curb cut from Richmond Drive, and one way access into the site—there will be no egress onto Richmond Drive. There will be egress only onto Boston Post Road, and it will become a right turn only out of the property. They will be establishing a covered area (a porte-cochere), and have a bypass lane as well.

Mr. Ginsberg said that a letter from a neighbor was received about establishing a new driveway curb cut on Richmond Drive. Mr. Gleason noted that they are reducing the amount of impervious surfaces by less than 200 square feet. The proposed hours of operation are 6 AM to 7 PM. Mr. Robert Correa explained that a van will pick up laundry shortly after 10 AM and then return at about 4 PM. There will be no van activity in the middle of the night.

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Mr. Gleason said that the dry cleaning employees will come out of the building to get or deliver clothes to the customer. The customers will also have access to a night drop off bin. He added that they have received ARB approval for the building, and will return to the ARB for any requested signage. They are asking for a waiver of the loading zone under Section 909 of the Zoning Regulations, and consideration of this business as an auto-dependent use, allowed within the SB-E zone regulations.

Mr. Charles Barthold of 34 Richmond Drive said he has concerns about the safety of the traffic pattern. He said that there is a median in Route 1, and traffic safety is a problem now. They will be adding more vehicles turning left, which will exacerbate the traffic problem. There are a number of vehicles which now use Richmond Drive as a cut-through. He said that there are now 21 houses with 42 children in this area, and he said that most people would object to this application, and asked for a continuation of the public hearing. The objection is not to the use, but to the curb cut on Richmond Drive.

Mr. Michael Koenitzer of 7 Richmond Drive said that Splash Car Wash already causes a back up on Boston Post Road on Saturdays. The proposed drop off box would be available 24 hours a day. Cars now speed on Richmond Drive, and people go through the stop sign.

Mr. Walter Ericsson of 136 Richmond Drive said that he is a long time resident. He too has no objection to the use, but he objects to the opening hour of 6 AM. He said that the Driftwood Diner trash is now collected early in the morning. The traffic and parking study should not have been waived, as there is now much more traffic since the big box stores have been established in Norwalk. At times, it is very difficult to get out of the street onto Boston Post Road. He then submitted a sketch of the traffic pattern. He said that the sketch looks confusing, because it is confusing. The green color on the sketch is the way it is supposed to be, and the red is the dangerous traffic pattern. Vehicles in the center median are on the left side of each other rather than to the right of each other. People will also come out of the egress drive and turn left to take a short cut towards Norwalk. In his opinion, it is possible to have access both in from Boston Post Road and egress to the Post Road as well. Mr. Ericsson said that he objects to the establishment of a driveway on Richmond Drive. He said that as more development happens at Commerce Bank and other proposed banks, there will be more traffic and less gaps in the traffic flow.

Ms. Debbie Previte of 33 Richmond Drive said that she too is opposed to the curb cut on Richmond Drive. This new driveway will make it worse than it is now. Mr. Michael Reed of 29 Richmond Drive said that he is not opposed to the business, but is opposed to the driveway curb cut on Richmond Drive. There are many "near misses" now.

Ms. Peggy Barthold of 34 Richmond Drive said that she is not opposed to the business, but is opposed to Richmond Drive access. She added that school bus traffic concerns here, and drivers now disregard existing stop signs.

Mrs. Elaine Pizzarelli of 13 Richmond Drive said that cars now speed on the street, and the more traffic using the street will make things worse. New people will be unfamiliar with the traffic pattern. She objects to the proposed curb cut on Richmond Drive.

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Mr. Michael Koenitzer said that people will turn left despite a “right turn only” sign. Mr. Gleason said that the concerns of speed and cut-through traffic are beyond the applicant’s control. He said that they expect 15 vehicles in the morning, and 15 in the afternoon. They propose to have “right-turn only” signs and a specially designed curb on Boston Post Road to prevent and minimize left turns. An entrance on Boston Post Road will not work.

Mr. Ericsson reiterated that no curb cut on Richmond Drive should be allowed. Mr. Ryan Salvatore, the owner of 3 Richmond Drive, believed that one option would be to allow access into Richmond Drive heading south, to discourage cut-through traffic into the residential area.

There being no further questions or comments from the general public or Commission members, Mrs. Forman made a motion to close the public hearing on this matter. That motion was seconded by Mr. Bigelow and unanimously approved. At about 10:50 P.M., Mr. Damanti then read the next agenda item:

Business Site Plan #244/Special Permit, Builderbuilt Holdings, LLC, 70 Tokeneke Road.

Proposing to construct a new office building with related landscaping and parking and perform related site development activities. The subject property is located on the northeast side of Tokeneke Road, directly across from the I-95 Exit 12 on-ramp (southbound), and is shown on Assessor’s Map #38 as Lot #2 in the DC Zone.

Attorney Robert F. Maslan Jr., of Maslan Brown Associates, was present, as was property owner Richard Donnelly. Mr. Maslan explained that the site is between Taste of Italy and I-95. It is presently undeveloped, and was formerly a dirt overflow parking lot. He said that there are only two lots on Tokeneke Road within the Designed Commercial (DC) Zone. This is a legally non-conforming undersized lot. They propose a 50’ x 50’ two story building. It will be a high-end residential development business. The upper floor is offices for design professionals. The first floor will be a display showroom.

The ARB has approved the design with a cupola to allow light into both the second and first floors. Relative to parking, they need first floor parking of 1 space per 100 square feet. According to the Zoning Regulations, they need 34 parking spaces, and are proposing 25. Section 904t allows the Commission to deal with this unique use, which is like a furniture/carpet store. Such type of stores only require six parking spaces per 1000 square feet. This is a showroom, but not a “walk out with the product” type of store. If the use changes, a new operator will need to come back before the Planning and Zoning Commission for review.

Mr. Spain confirmed that if this use moves out and a retail use is proposed, it would be a problem relative to parking. Mr. Maslan explained that the adjacent property at 72 Tokeneke Road needed a ZBA variance of 12 in lieu of 20 on-site parking spaces. The variance was granted for Taste of Italy previous users (ZBA Calendar #6-1987).

It was noted that the proposed use is not an office as described in Section 634e of the Zoning Regulations. Mr. Donnelly responded that this is a unique use. It is built-in cabinetry, millwork and lighting, so customers can see what they can get built into their house. It is not a showroom with multiple brands on display. There is a need to show clients examples of what can be built for

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them. There will be 3-5 designers on-site, plus five support staff, plus a few clients. Mr. Ginsberg said that parking in the future could be the problem.

Mr. Maslan said that the on-site septic design has been approved by the Health Department. A drainage report was submitted, and a loading space provided. The issues are the use and the parking under Section 904t.

There were no further comments or questions from P&Z members or the general public. Mr. Conze made a motion to close the public hearing. That motion was seconded by Mr. Bigelow and unanimously approved.

At about 11:10 P.M. Mr. Damanti read the next agenda item:

Special Permit Application #34-I, Woodway Country Club, 540 Hoyt Street. Proposing to construct three new buildings: a maintenance and administrative building; and environmental building; and a materials storage building and perform related site development activities. The subject property is located on the west side of Hoyt Street, approximately 1,600 feet north of its intersection with Woodway Road, and is shown on Assessor's Map #3 as Lot #137 in the R-2 Zone.

Attorney William Hennessey said that the subject application is not too dissimilar from recent applications that Wee Burn Country Club and the Country Club of Darien have submitted for work on their maintenance facilities. This application is comprehensively dealing with the needs for the Woodway Country Club maintenance facility. He then submitted a large photograph of the entire site with the subject area highlighted. Maps and plans were then reviewed. They propose to remove the smaller buildings and temporary structures.

They will be constructing a new 4,000+/- square foot building and an environmental pavilion. The pavilion will cover fueling, cleaning and mixing of chemicals. A special drainage system will be cleaned and pollutants removed. Mr. Brian McMahon of Redniss and Mead was present to answer any questions from the Commission. Mr. Hennessey continued by noting that there will be a courtyard effect to separate the uses from the street view. He submitted details of the waster treatment/separation. Architectural plans have been revised per the Architectural Review Board (ARB) to include clapboard. Norwalk spruce trees will be added as screening between the building and Hoyt Street. Mr. Larry Pakkala of Woodway Country Club said that the Norway Spruces will be 12 feet high and spaced ten feet apart to provide screening.

Mr. Bigelow asked about the two fuel tanks for the vehicles—the 500 gallon diesel tank and the 1000 gallon regular gas tank, and whether they will be above ground. It was noted that the fertilizer storage is separate and away from the fuel storage to avoid the volatility of the possible mixture of these materials. Carbtrol is the leader in the golf facilities industry. All of the staff members handling chemicals are trained to properly handle materials to avoid spills and deal with emergencies. The overall goal is to protect the environment. Relative to security, it was noted that everything is under lock and key. The only way into this area is past the employee housing area. It is fenced in with a steel fence.

There being no further questions or comments from the general public or Commission members, Mr. Conze made a motion to close the public hearing on this matter. That motion was seconded by

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Mr. Bigelow and unanimously approved. At about 11:30 P.M., Mr. Damanti then read the next agenda item:

Land Filling & Regrading Application #159, David Epprecht, 5 Dogwood Lane North.
Proposing to fill and regrade and perform related site development activities. The subject property is located on the west side of Dogwood Lane North, approximately 200 feet west of its intersection with Arrowhead Way, and is shown on Assessor's Map #64 as Lot #28 in the R-1 Zone.

Ms. Dorothy Bothwell explained that there was a revised recent plan. She also submitted a March 23, 2006 letter from Mr. Coots. They will be removing some impervious surfaces and walls to make a gentle slope. There is some filling and regrading work within fifteen feet of the property lines. There will be drainage down to a rain garden. Professional Engineer Steve McAllister explained that there will be no change in runoff, and some fill is being removed.

It was noted that there will be a swale provided to avoid water flowing towards the neighbor. EPC approval has been granted for this project. There were no further comments or questions from P&Z members or the general public. Mr. Conze made a motion to close the public hearing. That motion was seconded by Ms. Forman and unanimously approved.

There being no other business, the meeting was then adjourned at 11:35 P.M.

Respectfully submitted,

Jeremy B. Ginsberg
Planning & Zoning Director

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